

110TH CONGRESS
1ST SESSION

H. R. 556

AN ACT

To ensure national security while promoting foreign investment and the creation and maintenance of jobs, to reform the process by which such investments are examined for any effect they may have on national security, to establish the Committee on Foreign Investment in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Security For-
5 eign Investment Reform and Strengthened Transparency
6 Act of 2007”.

7 **SEC. 2. UNITED STATES SECURITY IMPROVEMENT AMEND-**
8 **MENTS; CLARIFICATION OF REVIEW AND IN-**
9 **VESTIGATION PROCESS.**

10 Section 721 of the Defense Production Act of 1950
11 (50 U.S.C. App. 2170) is amended by striking subsections
12 (a) and (b) and inserting the following new subsections:

13 “(a) DEFINITIONS.—For purposes of this section, the
14 following definitions shall apply:

15 “(1) COMMITTEE.—The term ‘Committee’
16 means the Committee on Foreign Investment in the
17 United States.

18 “(2) CONTROL.—The term ‘control’ has the
19 meaning given to such term in regulations which the
20 Committee shall prescribe.

21 “(3) COVERED TRANSACTION.—The term ‘cov-
22 ered transaction’ means any merger, acquisition, or
23 takeover by or with any foreign person which could
24 result in foreign control of any person engaged in
25 interstate commerce in the United States.

1 “(4) FOREIGN GOVERNMENT-CONTROLLED
2 TRANSACTION.—The term ‘foreign government-con-
3 trolled transaction’ means any covered transaction
4 that could result in the control of any person en-
5 gaged in interstate commerce in the United States
6 by a foreign government or an entity controlled by
7 or acting on behalf of a foreign government.

8 “(5) CLARIFICATION.—The term ‘national secu-
9 rity’ shall be construed so as to include those issues
10 relating to ‘homeland security’, including its applica-
11 tion to critical infrastructure.

12 “(b) NATIONAL SECURITY REVIEWS AND INVESTIGA-
13 TIONS.—

14 “(1) NATIONAL SECURITY REVIEWS.—

15 “(A) IN GENERAL.—Upon receiving writ-
16 ten notification under subparagraph (C) of any
17 covered transaction, or on a motion made under
18 subparagraph (D) with respect to any covered
19 transaction, the President, acting through the
20 Committee, shall review the covered transaction
21 to determine the effects of the transaction on
22 the national security of the United States.

23 “(B) CONTROL BY FOREIGN GOVERN-
24 MENT.—If the Committee determines that the
25 covered transaction is a foreign government-

1 controlled transaction, the Committee shall con-
2 duct an investigation of the transaction under
3 paragraph (2).

4 “(C) WRITTEN NOTICE.—

5 “(i) IN GENERAL.—Any party to any
6 covered transaction may initiate a review
7 of the transaction under this paragraph by
8 submitting a written notice of the trans-
9 action to the Chairperson of the Com-
10 mittee.

11 “(ii) WITHDRAWAL OF NOTICE.—No
12 covered transaction for which a notice was
13 submitted under clause (i) may be with-
14 drawn from review unless—

15 “(I) a written request for such
16 withdrawal is submitted by any party
17 to the transaction; and

18 “(II) the request is approved in
19 writing by the Chairperson, in con-
20 sultation with the Vice Chairpersons,
21 of the Committee.

22 “(iii) CONTINUING DISCUSSIONS.—
23 The approval of a withdrawal request
24 under clause (ii) shall not be construed as
25 precluding any party to the covered trans-

1 action from continuing informal discus-
2 sions with the Committee or any Com-
3 mittee member regarding possible resub-
4 mission for review pursuant to this para-
5 graph.

6 “(D) UNILATERAL INITIATION OF RE-
7 VIEW.—Subject to subparagraph (F), the Presi-
8 dent, the Committee, or any member acting on
9 behalf of the Committee may move to initiate a
10 review under subparagraph (A) of—

11 “(i) any covered transaction;

12 “(ii) any covered transaction that has
13 previously been reviewed or investigated
14 under this section, if any party to the
15 transaction submitted false or misleading
16 material information to the Committee in
17 connection with the review or investigation
18 or omitted material information, including
19 material documents, from information sub-
20 mitted to the Committee; or

21 “(iii) any covered transaction that has
22 previously been reviewed or investigated
23 under this section, if any party to the
24 transaction or the entity resulting from
25 consummation of the transaction inten-

tionally materially breaches a mitigation agreement or condition described in subsection (l)(1)(A), and—

“(I) such breach is certified by the lead department or agency monitoring and enforcing such agreement or condition as an intentional material breach; and

“(II) such department or agency certifies that there is no other remedy or enforcement tool available to address such breach.

“(E) TIMING.—Any review under this paragraph shall be completed before the end of the 30-day period beginning on the date of the receipt of written notice under subparagraph (C) by the Chairperson of the Committee, or the date of the initiation of the review in accordance with a motion under subparagraph (D).

“(F) LIMIT ON DELEGATION OF CERTAIN AUTHORITY.—The authority of the Committee or any member of the Committee to initiate a review under subparagraph (D) may not be delegated to any person other than the Deputy

1 Secretary or an appropriate Under Secretary of
2 the department or agency represented on the
3 committee or by such member (or by a person
4 holding an equivalent position to a Deputy Sec-
5 retary or Under Secretary).

6 “(2) NATIONAL SECURITY INVESTIGATIONS.—

7 “(A) IN GENERAL.—In each case in
8 which—

9 “(i) a review of a covered transaction
10 under paragraph (1) results in a deter-
11 mination that—

12 “(I) the transaction threatens to
13 impair the national security of the
14 United States and that threat has not
15 been mitigated during or prior to the
16 review of a covered transaction under
17 paragraph (1); or

18 “(II) the transaction is a foreign
19 government-controlled transaction;

20 “(ii) a roll call vote pursuant to para-
21 graph (3)(A) in connection with a review
22 under paragraph (1) of any covered trans-
23 action results in at least 1 vote by a Com-
24 mittee member against approving the
25 transaction; or

1 “(iii) the Director of National Intel-
2 ligence identifies particularly complex intel-
3 ligence concerns that could threaten to im-
4 pair the national security of the United
5 States and Committee members were not
6 able to develop and agree upon measures
7 to mitigate satisfactorily those threats dur-
8 ing the initial review period under para-
9 graph (1),

10 the President, acting through the Committee,
11 shall immediately conduct an investigation of
12 the effects of the transaction on the national se-
13 curity of the United States and take any nec-
14 essary actions in connection with the trans-
15 action to protect the national security of the
16 United States.

17 “(B) TIMING.—

18 “(i) IN GENERAL.—Any investigation
19 under subparagraph (A) shall be completed
20 before the end of the 45-day period begin-
21 ning on the date of the investigation com-
22 menced.

23 “(ii) EXTENSIONS OF TIME.—The pe-
24 riod established under subparagraph (B)
25 for any investigation of a covered trans-

1 action may be extended with respect to any
2 particular investigation by the President or
3 by a rollcall vote of at least 2/3 of the
4 members of the Committee involved in the
5 investigation by the amount of time speci-
6 fied by the President or the Committee at
7 the time of the extension, not to exceed 45
8 days, as necessary to collect and fully
9 evaluate information relating to—

10 “(I) the covered transaction or
11 parties to the transaction; and

12 “(II) any effect of the trans-
13 action that could threaten to impair
14 the national security of the United
15 States.

16 “(C) EXCEPTION.—Notwithstanding sub-
17 paragraph (A)(i)(II), an investigation of a for-
18 eign government-controlled transaction shall not
19 be required under this paragraph if the Sec-
20 retary of the Treasury, the Secretary of Home-
21 land Security, and the Secretary of Commerce
22 determine, on the basis of the review of the
23 transaction under paragraph (1), that the
24 transaction will not affect the national security
25 of the United States and no agreement or con-

1 dition is required, with respect to the trans-
2 action, to mitigate any threat to the national
3 security (and such authority of each such Sec-
4 retary may not be delegated to any person other
5 than the Deputy Secretary of the Treasury, of
6 Homeland Security, or of Commerce, respec-
7 tively).

8 “(3) APPROVAL OF CHAIRPERSON AND VICE
9 CHAIRPERSONS REQUIRED.—

10 “(A) IN GENERAL.—A review or investiga-
11 tion under this subsection of a covered trans-
12 action shall not be treated as final or complete
13 until the results of such review or investigation
14 are approved by a majority of the members of
15 the Committee in a roll call vote and signed by
16 the Secretary of the Treasury, the Secretary of
17 Homeland Security, and the Secretary of Com-
18 merce (and such authority of each such Sec-
19 retary may not be delegated to any person other
20 than the Deputy Secretary or an appropriate
21 Under Secretary of the Treasury, of Homeland
22 Security, or of Commerce, respectively).

23 “(B) ADDITIONAL ACTION REQUIRED IN
24 CERTAIN CASES.—In the case of any roll call
25 vote pursuant to subparagraph (A) in connec-

tion with an investigation under paragraph (2) of any foreign government-controlled transaction in which there is at least 1 vote by a Committee member against approving the transaction, the investigation shall not be treated as final or complete until the findings and report resulting from such investigation are signed by the President (in addition to the Chairperson and the Vice Chairpersons of the Committee under subparagraph (A)).

“(C) PRESIDENTIAL ACTION REQUIRED IN CERTAIN CASES.—In the case of any covered transaction in which any party to the transaction is—

“(i) a person of a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act), section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or other provision of law, is a government that has repeatedly

provided support for acts of international terrorism;

“(ii) a government described in clause (i); or

“(iii) person controlled, directly or indirectly, by any such government,

a review or investigation under this subsection of such covered transaction shall not be treated as final or complete until the results of such review or investigation are approved and signed by the President.

“(4) ANALYSIS BY DIRECTOR OF NATIONAL INTELLIGENCE.—

“(A) IN GENERAL.—The Director of National Intelligence shall expeditiously carry out a thorough analysis of any threat to the national security of the United States of any covered transaction, including making requests for information to the Director of the Office of Foreign Assets Control within the Department of the Treasury and the Director of the Financial Crimes Enforcement Network. The Director of National Intelligence also shall seek and incorporate the views of all affected or appropriate intelligence agencies.

1 “(B) TIMING.—The Director of National
2 Intelligence shall be provided adequate time to
3 complete the analysis required under subpara-
4 graph (A), including any instance described in
5 paragraph (2)(A)(iii).

6 “(C) INDEPENDENT ROLE OF DIRECTOR.—
7 The Director of National Intelligence shall not
8 be a member of the Committee and shall serve
9 no policy role with the Committee other than to
10 provide analysis under subparagraph (A) in
11 connection with a covered transaction.

12 “(5) SUBMISSION OF ADDITIONAL INFORMA-
13 TION.—No provision of this subsection shall be con-
14 strued as prohibiting any party to a covered trans-
15 action from submitting additional information con-
16 cerning the transaction, including any proposed re-
17 structuring of the transaction or any modifications
18 to any agreements in connection with the trans-
19 action, while any review or investigation of the
20 transaction is on-going.

21 “(6) REGULATIONS.—Regulations prescribed
22 under this section shall include standard procedures
23 for—

1 “(A) submitting any notice of a proposed
2 or pending covered transaction to the Com-
3 mittee;

4 “(B) submitting a request to withdraw a
5 proposed or pending covered transaction from
6 review; and

7 “(C) resubmitting a notice of proposed or
8 pending covered transaction that was previously
9 withdrawn from review.”.

10 **SEC. 3. STATUTORY ESTABLISHMENT OF THE COMMITTEE**
11 **ON FOREIGN INVESTMENT IN THE UNITED**
12 **STATES.**

13 (a) IN GENERAL.—Section 721 of the Defense Pro-
14 duction Act of 1950 (50 U.S.C. App. 2170) is amended
15 by striking subsection (k) and inserting the following new
16 subsection:

17 “(k) COMMITTEE ON FOREIGN INVESTMENT IN THE
18 UNITED STATES.—

19 “(1) ESTABLISHMENT.—The Committee on
20 Foreign Investment in the United States established
21 pursuant to Executive Order No. 11858 shall be a
22 multi-agency committee to carry out this section and
23 such other assignments as the President may des-
24 ignate.

1 “(2) MEMBERSHIP.—The Committee shall be
2 comprised of the following members or the designee
3 of any such member:

4 “(A) The Secretary of the Treasury.

5 “(B) The Secretary of Homeland Security.

6 “(C) The Secretary of Commerce.

7 “(D) The Secretary of Defense.

8 “(E) The Secretary of State.

9 “(F) The Attorney General.

10 “(G) The Secretary of Energy.

11 “(H) The Chairman of the Council of Eco-
12 nomic Advisors.

13 “(I) The United States Trade Representa-
14 tive.

15 “(J) The Director of the Office of Manage-
16 ment and Budget.

17 “(K) The Director of the National Eco-
18 nomic Council.

19 “(L) The Director of the Office of Science
20 and Technology Policy.

21 “(M) The President’s Assistant for Na-
22 tional Security Affairs.

23 “(N) Any other designee of the President
24 from the Executive Office of the President.

1 “(3) CHAIRPERSON; VICE CHAIRPERSONS.—The
2 Secretary of the Treasury shall be the Chairperson
3 of the Committee. The Secretary of Homeland Secu-
4 rity and the Secretary of Commerce shall be the Vice
5 Chairpersons of the Committee.

6 “(4) OTHER MEMBERS.—Subject to subsection
7 (b)(4)(B), the Chairperson of the Committee shall
8 involve the heads of such other Federal departments,
9 agencies, and independent establishments in any re-
10 view or investigation under subsection (b) as the
11 Chairperson, after consulting with the Vice Chair-
12 persons, determines to be appropriate on the basis
13 of the facts and circumstances of the transaction
14 under investigation (or the designee of any such de-
15 partment or agency head).

16 “(5) MEETINGS.—The Committee shall meet
17 upon the direction of the President or upon the call
18 of the Chairperson of the Committee without regard
19 to section 552b of title 5, United States Code (if
20 otherwise applicable).

21 “(6) COLLECTION OF EVIDENCE.—Subject to
22 subsection (c), the Committee may, for the purpose
23 of carrying out this section—

1 “(A) sit and act at such times and places,
2 take such testimony, receive such evidence, ad-
3 minister such oaths; and

4 “(B) require the attendance and testimony
5 of such witnesses and the production of such
6 books, records, correspondence, memoranda, pa-
7 pers, and documents as the Chairperson of the
8 Committee may determine advisable.

9 “(7) AUTHORIZATION OF APPROPRIATIONS.—

10 There are authorized to be appropriated to the Sec-
11 retary of the Treasury for each of fiscal years 2008,
12 2009, 2010, and 2011 expressly and solely for the
13 operations of the Committee that are conducted by
14 the Secretary, the sum of \$10,000,000.”.

15 (b) TECHNICAL AND CONFORMING AMENDMENT.—

16 The first sentence of section 721(c) of the Defense Pro-
17 duction Act of 1950 (50 U.S.C. App. 2170(c)) is amend-
18 ed—

19 (1) by striking “material filed with” and insert-
20 ing “material, including proprietary business infor-
21 mation, filed with, or testimony presented to,”; and

22 (2) by striking “or documentary material” the
23 second place such term appears and inserting “, doc-
24 umentary material, or testimony”.

1 **SEC. 4. ADDITIONAL FACTORS REQUIRED TO BE CONSID-**
2 **ERED.**

3 Section 721(f) of the Defense Production Act of 1950
4 (50 U.S.C. App. 2170(f)) is amended—

5 (1) in the matter preceding paragraph (1)—

6 (A) by striking “may” and inserting
7 “shall”; and

8 (B) by striking “among other factors”;

9 (2) by striking “and” at the end of paragraph
10 (4);

11 (3) by striking the period at the end of para-
12 graph (5) and inserting a semicolon; and

13 (4) by adding at the end the following new
14 paragraphs:

15 “(6) whether the covered transaction has a se-
16 curity-related impact on critical infrastructure in the
17 United States;

18 “(7) the potential effects of the covered trans-
19 action on the efforts of the United States to curtail
20 human smuggling (and such term, for purposes of
21 this paragraph, means any act constituting a viola-
22 tion of section 274(a) of the Immigration and Na-
23 tionality Act) and to curtail drug smuggling with re-
24 gard to any country which is not described in para-
25 graphs (1) and (2) of section 1003(a) of the Con-
26 trolled Substances Import and Export Act;

1 “(8) whether the covered transaction is a for-
2 eign government-controlled transaction; and

3 “(9) such other factors as the President or the
4 President’s designee may determine to be appro-
5 priate, generally or in connection with a specific re-
6 view or investigation.”.

7 **SEC. 5. NONWAIVER OF SOVEREIGN IMMUNITY.**

8 Section 721(d) of the Defense Production Act of
9 1950 (50 U.S.C. App. 2170(d)) is amended by adding at
10 the end the following new sentence: “The United States
11 shall not be held liable for any losses or other expenses
12 incurred by any party to a covered transaction as a result
13 of actions taken under this section after a covered trans-
14 action has been consummated if the party did not submit
15 a written notice of the transaction to the Chairperson of
16 the Committee under subsection (b)(1)(C) or did not wait
17 until the completion of any review or investigation under
18 subsection (b), or the end of the 15-day period referred
19 to in this subsection, before consummating the trans-
20 action.”.

21 **SEC. 6. MITIGATION, TRACKING, AND POST-CONSUMMA-**
22 **TION MONITORING AND ENFORCEMENT.**

23 Section 721 of the Defense Production Act of 1950
24 (50 U.S.C. App. 2170) is amended by inserting after sub-

1 section (k) (as amended by section 3 of this Act) the fol-
2 lowing new subsection:

3 “(l) MITIGATION, TRACKING, AND
4 POSTCONSUMMATION MONITORING AND ENFORCE-
5 MENT.—

6 “(1) MITIGATION.—

7 “(A) IN GENERAL.—The Committee or any
8 agency designated by the Chairperson and Vice
9 Chairpersons may, on behalf of the Committee,
10 negotiate, enter into or impose, and enforce any
11 agreement or condition with any party to a cov-
12 ered transaction in order to mitigate any threat
13 to the national security of the United States
14 that arises as a result of the transaction.

15 “(B) RISK-BASED ANALYSIS REQUIRED.—
16 Any agreement entered into or condition im-
17 posed under subparagraph (A) shall be based
18 on a risk-based analysis, conducted by the Com-
19 mittee, of the threat to national security of the
20 covered transaction.

21 “(2) TRACKING AUTHORITY FOR WITHDRAWN
22 NOTICES.—

23 “(A) IN GENERAL.—If any written notice
24 of a covered transaction that was submitted to
25 the Committee under this section is withdrawn

1 before any review or investigation by the Com-
2 mittee under subsection (b) is completed, the
3 Committee shall establish, as appropriate—

4 “(i) interim protections to address
5 specific concerns with such transaction
6 that have been raised in connection with
7 any such review or investigation pending
8 any resubmission of any written notice
9 under this section with respect to such
10 transaction and further action by the
11 President under this section;

12 “(ii) specific timeframes for resubmit-
13 ting any such written notice; and

14 “(iii) a process for tracking any ac-
15 tions that may be taken by any party to
16 the transaction, in connection with the
17 transaction, before the notice referred to in
18 clause (ii) is resubmitted.

19 “(B) DESIGNATION OF AGENCY.—The
20 Committee may designate 1 or more appro-
21 priate Federal departments or agencies, other
22 than any entity of the intelligence community
23 (as defined in the National Security Act of
24 1947), as a lead agency to carry out, on behalf
25 of the Committee, the requirements of subpara-

graph (A) with respect to any covered transaction that is subject to such subparagraph.

“(3) NEGOTIATION, MODIFICATION, MONITORING, AND ENFORCEMENT.—

“(A) DESIGNATION OF AGENCY.—The Committee shall designate 1 or more Federal departments or agencies as the lead agency to negotiate, modify, monitor, and enforce, on behalf of the Committee, any agreement entered into or condition imposed under paragraph (1) with respect to a covered transaction based on the expertise with and knowledge of the issues related to such transaction on the part of the designated department or agency.

“(B) REPORTING BY DESIGNATED AGENCY.—

“(i) IMPLEMENTATION REPORTS.—
Each Federal department or agency designated by the Committee as a lead agency under subparagraph (A) in connection with any agreement entered into or condition imposed under paragraph (1) with respect to a covered transaction shall—

“(I) report, as appropriate but not less than once in each 6-month

1 period, to the Chairperson and Vice
2 Chairpersons of the Committee on the
3 implementation of such agreement or
4 condition; and

5 “(II) require, as appropriate, any
6 party to the covered transaction to re-
7 port to the head of such department
8 or agency (or the designee of such de-
9 partment or agency head) on the im-
10 plementation or any material change
11 in circumstances.

12 “(ii) MODIFICATION REPORTS.—Any
13 Federal department or agency designated
14 by the Committee as a lead agency under
15 subparagraph (A) in connection with any
16 agreement entered into or condition im-
17 posed with respect to a covered transaction
18 shall—

19 “(I) provide periodic reports to
20 the Chairperson and Vice Chair-
21 persons of the Committee on any
22 modification to any such agreement or
23 condition imposed with respect to the
24 transaction; and

1 “(II) ensure that any significant
2 modification to any such agreement or
3 condition is reported to the Director
4 of National Intelligence and to any
5 other Federal department or agency
6 that may have a material interest in
7 such modification.

8 “(iii) COMPLIANCE.—The Committee
9 shall develop and agree upon methods for
10 evaluating compliance with any agreement
11 entered into or condition imposed with re-
12 spect to a covered transaction that will
13 allow the Committee to adequately assure
14 compliance without—

15 “(I) unnecessarily diverting Com-
16 mittee resources from assessing any
17 new covered transaction for which a
18 written notice has been filed pursuant
19 to subsection (b)(1)(C), and if nec-
20 essary reaching a mitigation agree-
21 ment with or imposing a condition on
22 a party to such covered transaction or
23 any covered transaction for which a
24 review has been reopened for any rea-
25 son; or

1 “(II) placing unnecessary bur-
2 dens on a party to a covered trans-
3 action.”.

4 **SEC. 7. INCREASED OVERSIGHT BY THE CONGRESS.**

5 (a) REPORT ON ACTIONS.—Section 721(g) of the De-
6 fense Production Act of 1950 (50 U.S.C. App. 2170) is
7 amended to read as follows:

8 “(g) REPORTS TO THE CONGRESS.—

9 “(1) REPORTS ON COMPLETED COMMITTEE IN-
10 VESTIGATIONS.—

11 “(A) IN GENERAL.—Not later than 5 days
12 after the completion of a Committee investiga-
13 tion of a covered transaction under subsection
14 (b)(2), or, if the President indicates an intent
15 to take any action authorized under subsection
16 (d) with respect to the transaction, after the
17 end of 15-day period referred to in subsection
18 (d), the Chairperson or a Vice Chairperson of
19 the Committee shall submit a written report on
20 the findings or actions of the Committee with
21 respect to such investigation, the determination
22 of whether or not to take action under sub-
23 section (d), an explanation of the findings
24 under subsection (e), and the factors considered

1 under subsection (f), with respect to such trans-
2 action, to—

3 “(i) the Majority Leader and the Mi-
4 nority Leader of the Senate;

5 “(ii) the Speaker and the Minority
6 Leader of the House of Representatives;

7 “(iii) the chairman and ranking mem-
8 ber of each committee of the House of
9 Representatives and the Senate with juris-
10 diction over any aspect of the covered
11 transaction and its possible effects on na-
12 tional security, including, at a minimum,
13 the Committee on Foreign Affairs, the
14 Committee on Financial Services, and the
15 Committee on Energy and Commerce of
16 the House of Representatives; and

17 “(iv) Senators representing States
18 and Members of Congress representing
19 congressional districts that would be sig-
20 nificantly affected by the covered trans-
21 action.

22 “(B) NOTICE AND BRIEFING REQUIRE-
23 MENT.—If a written request for a briefing on a
24 covered transaction, or on compliance with a
25 mitigation agreement or condition imposed with

1 respect to such transaction, is submitted to the
2 Committee by any Senator or Member of Con-
3 gress who receives a report on the transaction
4 under subparagraph (A), the Chairperson or a
5 Vice Chairperson (or such other person as the
6 Chairperson or a Vice Chairperson may des-
7 ignate) shall provide 1 classified briefing to
8 each House of the Congress from which any
9 such briefing request originates in a secure fa-
10 cility of appropriate size and location that shall
11 be open only to the Majority Leader and the
12 Minority Leader of the Senate, the Speaker and
13 the Minority Leader of the House of Represent-
14 atives, (as the case may be) the chairman and
15 ranking member of each committee of the
16 House of Representatives or the Senate (as the
17 case may be) with jurisdiction over any aspect
18 of the covered transaction and its possible ef-
19 fects on national security, including, at a min-
20 imum, the Committee on Foreign Affairs, the
21 Committee on Financial Services, and the Com-
22 mittee on Energy and Commerce of the House
23 of Representatives, and appropriate staff mem-
24 bers who have security clearance.

25 “(2) APPLICATION OF OTHER PROVISION.—

1 “(A) IN GENERAL.—The disclosure of in-
 2 formation under this subsection shall be con-
 3 sistent with the requirements of subsection (c).
 4 Members of Congress and staff of either House
 5 or any committee of the Congress shall be sub-
 6 ject to the same limitations on disclosure of in-
 7 formation as are applicable under such sub-
 8 section.

9 “(B) PROPRIETARY INFORMATION.—Pro-
 10 prietary information which can be associated
 11 with a particular party to a covered transaction
 12 shall be furnished in accordance with subpara-
 13 graph (A) only to a committee of the Congress
 14 and only when the committee provides assur-
 15 ances of confidentiality, unless such party oth-
 16 erwise consents in writing to such disclosure.”.

17 (b) ANNUAL REPORT.—Section 721 of the Defense
 18 Production Act of 1950 (50 U.S.C. App. 2170) is amend-
 19 ed by inserting after subsection (l) (as added by section
 20 6 of this Act) the following new subsection:

21 “(m) ANNUAL REPORT TO THE CONGRESS.—

22 “(1) IN GENERAL.—The Chairperson of the
 23 Committee shall transmit a report to the chairman
 24 and ranking member of each committee of the
 25 House of Representatives and the Senate with juris-

1 diction over any aspect of the report, including, at
2 a minimum, the Committee on Foreign Affairs, the
3 Committee on Financial Services, and the Com-
4 mittee on Energy and Commerce of the House of
5 Representatives, before July 31 of each year on all
6 the reviews and investigations of covered trans-
7 actions completed under subsection (b) during the
8 12-month period covered by the report.

9 “(2) CONTENTS OF REPORT RELATING TO COV-
10 ERED TRANSACTIONS.—The report under paragraph
11 (1) shall contain the following information with re-
12 spect to each covered transaction:

13 “(A) A list of all notices filed and all re-
14 views or investigations completed during the pe-
15 riod with basic information on each party to the
16 transaction, the nature of the business activities
17 or products of all pertinent persons, along with
18 information about the status of the review or
19 investigation, information on any withdrawal
20 from the process, any rolleall votes by the Com-
21 mittee under this section, any extension of time
22 for any investigation, and any presidential deci-
23 sion or action under this section.

24 “(B) Specific, cumulative, and, as appro-
25 priate, trend information on the numbers of fil-

1 ings, investigations, withdrawals, and presi-
2 dential decisions or actions under this section.

3 “(C) Cumulative and, as appropriate,
4 trend information on the business sectors in-
5 volved in the filings which have been made, and
6 the countries from which the investments have
7 originated.

8 “(D) Information on whether companies
9 that withdrew notices to the Committee in ac-
10 cordance with subsection (b)(1)(C)(ii) have
11 later re-filed such notices, or, alternatively,
12 abandoned the transaction.

13 “(E) The types of security arrangements
14 and conditions the Committee has used to miti-
15 gate national security concerns about a trans-
16 action, including a discussion of the methods
17 the Committee and any lead departments or
18 agencies designated under subsection (l) are
19 using to determine compliance with such ar-
20 rangements or conditions.

21 “(F) A detailed discussion of all perceived
22 adverse effects of covered transactions on the
23 national security or critical infrastructure of the
24 United States that the Committee will take into
25 account in its deliberations during the period

1 before delivery of the next such report, to the
2 extent possible.

3 “(3) CONTENTS OF REPORT RELATING TO
4 CRITICAL TECHNOLOGIES.—

5 “(A) IN GENERAL.—In order to assist the
6 Congress in its oversight responsibilities with
7 respect to this section, the President and such
8 agencies as the President shall designate shall
9 include in the annual report submitted under
10 paragraph (1) the following:

11 “(i) An evaluation of whether there is
12 credible evidence of a coordinated strategy
13 by 1 or more countries or companies to ac-
14 quire United States companies involved in
15 research, development, or production of
16 critical technologies for which the United
17 States is a leading producer.

18 “(ii) An evaluation of whether there
19 are industrial espionage activities directed
20 or directly assisted by foreign governments
21 against private United States companies
22 aimed at obtaining commercial secrets re-
23 lated to critical technologies.

24 “(B) CRITICAL TECHNOLOGIES DE-
25 FINED.—For purposes of this paragraph, the

1 term ‘critical technologies’ means technologies
2 identified under title VI of the National Science
3 and Technology Policy, Organization, and Pri-
4 orities Act of 1976 or other critical technology,
5 critical components, or critical technology items
6 essential to national defense or national security
7 identified pursuant to this section.

8 “(C) RELEASE OF UNCLASSIFIED
9 STUDY.—That portion of the annual report
10 under paragraph (1) that is required by this
11 paragraph may be classified. An unclassified
12 version of that portion of the report shall be
13 made available to the public.”.

14 (c) STUDY AND REPORT.—

15 (1) STUDY REQUIRED.—Before the end of the
16 120-day period beginning on the date of the enact-
17 ment of this Act and annually thereafter, the Sec-
18 retary of the Treasury, in consultation with the Sec-
19 retary of State and the Secretary of Commerce, shall
20 conduct a study on investments in the United
21 States, especially investments in critical infrastruc-
22 ture and industries affecting national security, by—

23 (A) foreign governments, entities controlled
24 by or acting on behalf of a foreign government,

1 or persons of foreign countries which comply
2 with any boycott of Israel; or

3 (B) foreign governments, entities con-
4 trolled by or acting on behalf of a foreign gov-
5 ernment, or persons of foreign countries which
6 do not ban organizations designated by the Sec-
7 retary of State as foreign terrorist organiza-
8 tions.

9 (2) REPORT.—Before the end of the 30-day pe-
10 riod beginning upon completion of each study under
11 paragraph (1) or in the next annual report under
12 section 721(m) of the Defense Production Act of
13 1950 (as added by subsection (b)), the Secretary of
14 the Treasury shall submit a report to the Congress,
15 for transmittal to all appropriate committees of the
16 Senate and the House of Representatives, containing
17 the findings and conclusions of the Secretary with
18 respect to the study described in paragraph (1), to-
19 gether with an analysis of the effects of such invest-
20 ment on the national security of the United States
21 and on any efforts to address those effects.

22 (d) INVESTIGATION BY INSPECTOR GENERAL.—

23 (1) IN GENERAL.—The Inspector General of
24 the Department of the Treasury shall conduct an
25 independent investigation to determine all of the

1 facts and circumstances concerning each failure of
2 the Department of the Treasury to make any report
3 to the Congress that was required under section
4 721(k) of the Defense Production Act of 1950 (as
5 in effect before the date of the enactment of this
6 Act).

7 (2) REPORT TO THE CONGRESS.—Before the
8 end of the 270-day period beginning on the date of
9 the enactment of this Act, the Inspector General of
10 the Department of the Treasury shall submit a re-
11 port to the chairman and ranking member of each
12 committee of the House of Representatives and the
13 Senate with jurisdiction over any aspect of the re-
14 port, including, at a minimum, the Committee on
15 Foreign Affairs, the Committee on Financial Serv-
16 ices, and the Committee on Energy and Commerce
17 of the House of Representatives, on the investigation
18 under paragraph (1) containing the findings and
19 conclusions of the Inspector General.

20 **SEC. 8. CERTIFICATION OF NOTICES AND ASSURANCES.**

21 Section 721 of the Defense Production Act of 1950
22 (50 U.S.C. App. 2170) is amended by inserting after sub-
23 section (m) (as added by section 7(b) of this Act) the fol-
24 lowing new subsection:

1 “(n) CERTIFICATION OF NOTICES AND ASSUR-
2 ANCES.—Each notice required to be submitted, by a party
3 to a covered transaction, to the President or the Presi-
4 dent’s designee under this section and regulations pre-
5 scribed under such section, and any information submitted
6 by any such party in connection with any action for which
7 a report is required pursuant to paragraph (3)(B)(ii) of
8 subsection (l) with respect to the implementation of any
9 mitigation agreement or condition described in paragraph
10 (1)(A) of such subsection, or any material change in cir-
11 cumstances, shall be accompanied by a written statement
12 by the chief executive officer or the designee of the person
13 required to submit such notice or information certifying
14 that, to the best of the person’s knowledge and belief—

15 “(1) the notice or information submitted fully
16 complies with the requirements of this section or
17 such regulation, agreement, or condition; and

18 “(2) the notice or information is accurate and
19 complete in all material respects.”.

20 **SEC. 9. REGULATIONS.**

21 Section 721(h) of the Defense Production Act of
22 1950 (50 U.S.C. App. 2170(h)) is amended to read as
23 follows:

24 “(h) REGULATIONS.—The President shall direct the
25 issuance of regulations to carry out this section. Such reg-

ulations shall, to the extent possible, minimize paperwork burdens and shall to the extent possible coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law.”.

5 SEC. 10. EFFECT ON OTHER LAW.

6 Section 721(i) of the Defense Production Act of 1950
7 (50 U.S.C. App. 2170(i)) is amended to read as follows:

8 “(i) EFFECT ON OTHER LAW.—No provision of this
9 section shall be construed as altering or affecting any
10 other authority, process, regulation, investigation, enforcement
11 measure, or review provided by or established under
12 any other provision of Federal law, including the Inter-
13 national Emergency Economic Powers Act, or any other
14 authority of the President or the Congress under the Con-
15 stitution of the United States.”.

16 SEC. 11. EFFECTIVE DATE.

17 The amendments made by this Act shall apply after
18 the end of the 90-day period beginning on the date of the
19 enactment of this Act.

Passed the House of Representatives February 28,
2007.

Attest:

Clerk.

110TH CONGRESS
1ST Session

H. R. 556

AN ACT

To ensure national security while promoting foreign investment and the creation and maintenance of jobs, to reform the process by which such investments are examined for any effect they may have on national security, to establish the Committee on Foreign Investment in the United States, and for other purposes.